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CONSTITUTIONAL LETTERS,

IN ANSWER TO

MR. P A I N E ' s

R I G H T S O F M A N.

L O N D O N:

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TO MR. P A I N E.

L E T T E R I.

MR. PAIN having published a work which, I really believe, every person thought with him "was written in a style of thinking and expression different to what had been customary in England," induced me to address the people of Great Britain with a series of Constitutional Letters. To prevent his *Rights of Man* deluding the people of this country into an opinion that they had no constitution, and

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consequently no political rights or privileges, was the immediate intention of my first letter. His Rights of Man contain a style of thinking, not only so different but so dangerous to what England has ever experienced, that every friend to national peace and prosperity must view with alarm. To persuade a people they have no civil or political blessing that can render their existence desirable, their properties secure, or their exertions prosperous, is calculated to involve the nation in a scene of despair and desolation. The *Rights of Man* would then have been wrecked by the tempest of a revolution raised by folly, madness, ignorance and desperation. Mr. Paine might then have enjoyed the havoc he had caused, like a second Nero, fiddling in concert with the groans of expiring citizens. If such be the motive, pride, and ambition of Mr. Paine, let him go and preach his revolution principles in countries where death is preferable to existence, where the wretched captive can only find freedom in the grave, and where life is so embittered as to render civil destruction desirable ; but let him not come, under the pretence of dispensing Rights to Man, to a country where his presence is unnecessary,

his

his sentiments inapplicable, and his interference obtrusion. Let him not come to a country which has a constitution founded from the earliest periods of its political existence, and possessing an excellence that is the pride of this country, and the admiration of every other. In his zeal for revolution, let not his *Rights of Man* undermine the happiness of society, by decluding the ignorant and inexperienced into any opinion of their having nothing to enjoy. However our privileges may have been abused, perverted, and restrained, yet our rights are unalienable. Although government is corrupt, our constitution is inviolate. The sun, while obscured by the foulness of stagnant mists, cannot dispense his animating and fostering influence; but his existence his unimpaired, and his glory undiminished.

THUS, although the beauty of our constitution has been shrouded, and its genial effects on us intercepted by corrupt oppression, its existence is immutable, and its principles immaculate.

HAVING shewn the fatal tendency, as well as the fallacious doctrine of asserting, that we have

have no constitution, it is proper to ascertain whether Mr. Paine has a just idea of what the term constitution means: for if he has attached to the word a meaning as different from its true sense, as his pamphlets are written in a style of thinking and expression different from what has been customary in England, it would be in vain to prove that we have a constitution. It will be folly to endeavour to convince a mind, under such impressions of prejudice, as views truth like some people do eclipses of the sun through a smoaked glass, from their eyes not being sufficiently strong to bear the splendour of the luminary.

BUT, in justice to Mr. Paine, can it be supposed he seriously believes himself while he asserts we have no constitution? Is it possible that so enlightened a writer, who has taken upon him the arduous and impracticable task of teaching the world political wisdom, should be so ignorant of the history of this country, as not to know the constitution that was established by our Saxon ancestors? He must have read our history, or he could never have presumed to have dictated to Englishmen what were the rights of men. And if he has read it, in what part can he find that

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we never had a constitution? Does he trace it in the absolute or allodial property of soil, with which the Saxons invested every subject? Does he trace it in the share which every Saxon possessed in the legislation? Or does he trace it in the right established by Alfred of every subject being tried by his peers? If he can prove from either of these historical facts that we have no constitution, I will pledge myself to desist from any further answer.

If the right of inheritance, the power of making laws by which we are governed, and the privilege of being consulted in their execution, are no proofs of a constitution, I agree with him that, having nothing to reform, a revolution is indispensable. Having no constitutional rights during a political existence of near 2000 years, must evince every person that we have no time to loose in acquiring the Rights of Man. But, unfortunately, for the unfounded dogmas of Mr. Paine, by contradicting himself, he proves there is, while he denies a constitution in England. In page 172 of his second part, he says, "But when the nation come to examine in-
" to its principles and the abuses it admits, it will
" be found to have more defects than I have
" pointed

“ pointed out in this work and the former.”—How does this accord with what he has so boldly asserted in his first part, page 58, that the country is “without a constitution.” Can a non-entity have defects, or be liable to abuses? Is it possible to abuse what does not exist? But perhaps, Mr. Paine has formed a new system of logic, as well as politics, by which he can demonstrate the possibility of abusing what he has neither seen, felt, heard, or understood. Indeed, his two pamphlets seem professedly to be written for the purpose of decrying a constitution which he pretends, at the same time, is not in being. I therefore neither agree with him nor Mr. Burke, in their asserting the age of chivalry is gone. Mr. Paine is, himself, a living contradiction. Like a knight errant, he not only runs from one quarter of the globe to another, professing to fight with hydras of corruption, lop the limbs of gigantic despotism, and, wafted on the wings of rhapsody, lift worlds from their spheres. *

What

* Mr. Paine begins his introduction to his second part with observing, “ What Archimedes said of the mechanical powers, “ may be applied to *reason* and *liberty* : Had we” said he, “ a “ place to stand upon, we might *raise the world.*” As an hyperbole

What is, therefore, Don Quixote to Mr. Paine? The knight of Cervantes dwindles before our revolution Quixote into a mere lacquey. Don Quixote only fought windmills for giants, took asses for palfreys, and country bumpkins for princesses. But our hero takes constitutions, and, with a breath, puffs them into a nullity. As school-boys waft bubbles from tobacco-pipes by a puff into non-entities, Mr. Paine, with a puff, blows constitutions and governments into atoms, and what is worse, "*like the baseless fabric of a vision leaves not a wreck behind.*"

BUT leaving him to the full enjoyment of his fantasies, which are too absurd, impotent, and unsubstantial, to shake either our reason, or the rights

to shew the extent of mechanical powers, this rhetorical figure is admissible; but, to found philosophy, it is a nonsensical rhapsody. Before the world could be raised, by any such advantage of ground to stand upon, some greater power than any contained in mechanics must be found to stop the force and rapidity of its diurnal and annual motions: and before Mr. Paine can support his hopes of raising the political world, by having, as he thinks, *the revolution of America to stand upon*, he must find a lever of much greater energy than what his Rights of Man contain to lift the consolidated wisdom of ages from its seat of propriety.

rights we possess by our constitution, let us proceed to examine the “ standard signification” he has pretended to give to a constitution. He first, with a great share of wisdom informs us, that “ a constitution is not a thing in name only, but “ in fact.” This is similar to that very original information which he bestowed on the world, in the long account he gave of the origin of kings, in his pamphlet, entitled Common Sense. To be sure, it was necessary Mr. Paine should take the trouble of coming from America to England, to inform us, that a constitution was not a mere name, but an active principle. It was undoubtedly never known to any legislator before, that the constitution was, and ought certainly to be, the principle of his actions. But, lest the position should not be understood, he repeats the idea again by observing, “ it has not an ideal, but a real existence.” Here he gives us a new lesson in metaphysics, as well as politics: he gives us an instance of a real existence, without the power of raising in the mind an idea of its being. According to this “ standard signification,” I must agree with Mr. Paine, that we neither have nor ever had a constitution. The constitution we have, has not only a real, but an ideal existence,

in every mind capable of conceiving the first and most essential principles of freedom. Were it not in the minds of even our monarchs and ministers, the influence of the crown had never been exerted to unnerve the energy with which it is incessantly restraining their actions. It is the sense which they have of the power of our constitution, that has impoverished the people, to create an influence for the controul of what would otherwise prove an impregnable defence against the avarice of courtiers, the ambition of ministers, and the tyranny of monarchs.

BUT Mr. Paine says, that, “wherever it cannot be produced in a visible form, there is none.” What other visible forms of a constitution would he require, than every independent member in the House of Commons, every juryman impanelled in our courts of justice, every title deed of property, and the variety of common and statute laws that recognise our ancient rights, while they secure our persons and possessions? Mr. Paine might, indeed, require more of these “visible forms.” But surely these are sufficient to prove the existence of our con-

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stitution? I am as sensible as Mr. Paine can possible be, of our not having either so many “visible forms” or essential privileges as we are entitled to by our constitution. I know we should have not only the visible form but these efficient rights—that every ostensible householder should have a share in the legislature; that our parliaments should be held at least once a year, and more frequently if necessary; that our taxes should be levied with our uncontroled consent, and applied in our defence—not in our destruction; that our representation should be independent; and that our sovereigns should protect us against mutual depredation, and not render us the prey of each other, and the slaves of themselves.

KNOWING that we have a constitution by which the above claims can be supported, is a chief cause of these Constitutional Letters. By this means, I hoped to allay the desire for a revolution—but not to extinguish the national anxiety for reform. The blessings of freedom are too dear and too essential to our existence, not to raise in the mind of every independent citizen,

citizen, an enthusiastic ardour to restore our government to its pristine vigour and integrity. He is only worthy of fetters who can be pleased with chains, however valuable the metal may be of which they are forged. But, in our zealous wishes to reform, let us be careful of subverting the constitution it is only necessary to restore. Let us not leave the land-marks our ancestors have placed to guide us again to freedom, after corruption has led us astray, left the liberties we have might be entirely wrecked in the wild tornado of a revolution.

IN my zeal to preserve peace, order, and prosperity to Great Britain, let me not be accused of espousing the principles of Mr. Burke, in his fallen state of political apostacy. On the same principles that I defended him against a violent attack during the American war, I shall ever oppose his sentiments in favour of Gallic despotism. He was then accused of being concerned in a faction that was aiding rebellion against the government of his country. Dear as I love peace, I was a friend to American resistance, and most sincerely congratulated her on her independence. Every advocate in her cause I

considered

considered the patriot of a national liberty. With these impressions, Mr. Burke had my feeble services*. He knows best whether they failed or succeeded. If the latter were the consequence, he was welcome. But it was not his cause alone in which my efforts were exerted. It was the cause of freedom and independence: America was defending herself against a system of oppression, that was not only inimical to freedom, but contrary to the first privileges of the constitution by which she was governed. Had not this been the cause of her resistance, she had every title to independence; colonies, like children, when first established, claim the support and protection of the mother-country; but when mature, and able to protect themselves, like the adult, the parents should resign their authority, but retain their affection.

CONSIDERING that France had burst the shackles of a long established despotism, every means by which it was or could have been effected, short of national desolation, are to be defended on the universal rights of society and

* Letters signed *The Corrector*, in answer to the *Alarm*, published under the signature of *Cassandra*.

nature.

nature. Mr. Burke is, therefore, as censurable for reproaching a people, who have emancipated themselves and their posterity, as Mr. Paine is for endeavouring to stimulate this country to a revolution on the fallacious doctrine of our having no constitution to which we can recur for the principles of liberty. Is it possible that the defender of American resistance, should be the enemy of a people relieving themselves from lettres de cachet, the dungeons of bastiles, the chains of gallies, the torments of racks, and the endless variety of oppression, that was endured from a plundering clergy, a rapacious excise, a devouring military, and a cruel, profligate, mercenary and intriguing government? The friend to these sufferings of a people must be an enemy to human nature. Rather than be capable of defending such a system of misery, I would abandon society, and every accommodation it dispenses.

THIS letter being chiefly intended to disprove what Mr. Paine asserts, "that the people have yet a constitution to form *," I now proceed to examine the remaining definitions he

* Rights of Man, part 1, p. 37.

has

has given of a constitution for the purpose of deducing the above conclusion. He says, that “ a constitution is a *thing antecedent* to a government, and a government is only the creature of a constitution.” Instead of this being the fact, a constitution may be coeval, but never antecedent to a government. On the contrary, a constitution is more frequently subsequent to a government. The best constitutions have been the effects of the worst governments. The code of laws Lycurgus formed for the Spartans, those regulations which Epaminondas formed for Thebes, the first republic established by Theseus in Athens, the commonwealth by Brutus in Rome, the same by William Tell and others in Switzerland, the commonwealth by Washington in America, and the late free constitution by La Fayette and other patriots in France, are all the effects of precedent governments. There is, indeed, scarcely an instance in which a constitution has been formed among a people before some government has been established. Even in colonization, which approaches the nearest to the position of Mr. Paine, the constitution is generally the creature of the government in the mother-country, instead of the go-
vernment

vernment being "the creature, as he states, of a constitution." Constitutions are not to be formed like mushrooms, regardless of soil, time, nature, and attention. The temper of the people is to be tried, the nature of their internal advantages ascertained, and their relative situation considered. And as such a work cannot be performed without experience, some temporary government is indispensable to preserve, in the mean time, peace, order, and property among the associated individuals. And as this government operates, the constituent legislator derives the best lessons to be mild or rigorous, liberal or mercenary, ingenuous or reserve, peaceable or warlike in his regulations, according to the disposition of his people, and the necessity of local and foreign contingency. For although Mr. Paine may imagine, that one constitution, however free, may suit every people, laws must be adapted according to the variety of nations, and not a variety of nations conform to one system of law. Even liberty itself would, in this instance, be oppression; for no freedom can exist unless the privileges it dispenses are congenial to the nature of those on whom it is intended to be conferred. Liberty is, indeed, not a positive but a relative existence.

existence. Its extent and value arises from the nature of the laws with which it is connected. Had we never known that cruel, unwise, and unjust law, imprisonment for debt, we should never have known the valuable liberty derived from a habeas corpus. Had that equality been preserved, which ought to be in a country where integrity, ability, and courage are the common blessings of a people, and on which distinction should only be founded, we had never known the extent of that invaluable privilege of being judged by our peers. But liberty not only derives its value, and even existence, from antecedent or coeval laws, but from the change of circumstance occasioned by a series of time. In the days of Richard II. to have the privilege of sending members to parliament was considered a grievance. In the days of George III. a free and virtuous representation is considered one of the most valuable rights. There is, consequently, no one standard of liberty to which all nations at all times can resort: on the contrary, the inhabitants of the same nation will consider at different periods the same right a burthen and a blessing. Is it, therefore, in the power of Mr. Paine to dictate what are the

Rights of Man? Or is it in the power of Mr. Burke to prescribe the government to which a people ought to submit? The people themselves are the only judges. On them alone the laws attach; to them alone the appeal for reform should be made; and by them alone oppression is to be destroyed, and freedom recovered.

THOSE who are so anxious for a revolution in this country, remind me of the following story: Cardinal York, who had been raised from the shambles to his eminent situation in the church, by Hen. VIII. kept, according to the fashion of those days, a fool for his diversion. And as fools had the privilege of speaking truth with impunity, one day he told the Cardinal, that he wished greatly to see him a pope. His master asking him the reason, "St. Peter," said the fool, "being a fisherman, instituted Lent for the benefit of his relations, who were all of the same trade; and were your eminence Pope, you would, no doubt, abolish Lent for the benefit of butchers."

MR. PAIN is anxious to have an English constitution produced. If it cannot, he con-

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cludes, "no such thing as a constitution exists, " or ever did exist, and consequently the people have yet a constitution to form." If sufficient "visible forms" have not been already produced in this letter, to satisfy Mr. Paine of our constitution, I shall endeavour still further to convince him of not only its "ideal," but "real existence."

As his definition of such "a thing" appears absurd, inconsistent, and inexplicable, it is necessary to state, in as clear and as obvious terms as possible, what may be understood by a constitution. When the meaning of the word is intelligibly ascertained, its existence may be demonstrated with more facility and certainty.

A CONSTITUTION is a body of fundamental laws, established by practice and experience, derived, in most instances, from the progress of government. Every successive regulation that is adopted, either by common or statute law, for ascertaining a privilege, removing a grievance, or invigorating the powers of a patriotic government, is a fundamental principle, and consequently forms an essential part of a constitution.

tion. And the nearer these approach to the restoration of the rights of nature, without diminishing the security every individual should derive from society, the more sacred and inviolate are the principles. By this test, the merit of every constitution may be known, and the rule of its government prescribed. Every law, therefore, that has been from age to age enacted for the encrease, defence, or recognition of liberty, has contributed to form, improve, and establish the constitution. And, on the contrary, such laws as have deviated from these principles, are infringements of privilege, but no destruction of rights. A right once ascertained and acknowledged can never be destroyed. Its exercise may be suspended, but the claim remains inviolable. The people may, by an unanimous agreement, resign themselves to slavery ; but they can never divest their posterity of their claims to freedom. Individuals may be divested and plundered of their rights as well as their possessions, but no power is so omnipotent as to annihilate claims that are as immutable as the eternal principle of justice itself. The tyranny, therefore, which Mr. Paine has adduced of William the Conqueror, to prove we are without a constitution,

was indeed a cruel, unprincipled, and arbitrary suspension of privilege, but no destruction of right. To deduce the non-existence of our constitution from the violation of government, is the same as to say, the sacred laws of morality and religion are destroyed, because they are abused by atheists and infidels. No, on the contrary, they exist as a perpetual standard to prove and measure the extent and enormity of such atrocious principles and practices; for, although no friend to cant, pretence, or hypocrisy, I have always thought him the worst of citizens who would endeavour, by either his example or precept, to relax either religious or political bonds, which can only preserve the welfare and happiness of civil communities.

As constitutional claims cannot be alienated without the consent of a people, no more can posterity be dispossessed of them by any compact made by their progenitors. Mr. Burke and Mr. Paine have equally erred, not only against political law, but against the permanent maxims of jurisprudence. The rights of the present generation could no more be forfeited by the compact of our ancestors with William III. than they

they were annihilated by the oppression of William I. The claims are permanent, although the rights have unjustly suffered, and do now endure a temporary suspension. The constitution may have been put in a trance by the laudanum of corrupt influence, but it can never die. There is, therefore, no necessity for adopting Mr. Paine's methodistical remedy of "regeneration." But there is no cause for surprise in Mr. Paine having committed an absurdity, when we have such an authority as Cicero to prove, that there is nothing so absurd which has not been observed even by philosophers. *Nihil tam absurdum dici potest, quod non dicatur ab aliquo philosophorum.*

MR. P A I N E ' s wishing to bury all remembrance of a constitution, may arise from its being old, and apparently in a state of languor by corruptive depression. He may, for these reasons, have imbibed the same prejudices against it as the Heruli did against their aged and infirm, whom they put to death before the course of nature demanded a resignation of their existence. Indeed, his antipathy seems rather to border on the unnatural ingratitude of the Caspians, who

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imprisoned and starved to death even their aged parents. Thus would Mr. Paine unnaturally and ungratefully bury alive a constitution which, like a parent, has fostered his earlier days, and, at this instant, is extending protection to him as one of her native children. At the very moment that he is endeavouring to entomb her, under the direful ruins of a revolution, she protects him against the resentment of power. That he is protected by the law in what he has written, appears, from his own words, to be his security against any prosecution. "It would be an act of despotism," he says, "or what in England is called arbitrary power, to make a law to prohibit investigating the principles, good or bad, on which such a law or any other is founded." And, in the next page, he says, speaking of constitutions and governments, those subjects, as subjects of investigation, are always "before a country as a matter of right, and cannot, without invading the general rights of that country, be made subjects for prosecution." What are those general rights, under which Mr. Paine thinks he could shelter himself against a criminal process?—Are they not the rights derived from an existing constitution? When

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men first associate, they resign all their rights until a constitution bestow them, according as the nature of circumstances and the trial of government may dictate for public welfare. The confidence, therefore, of Mr. Paine, in being secured from prosecution by these general rights, is avowing a constitution, which, in his pamphlets, he has denied to have an existence. His confidence in this subject almost borders on presumption. He seems to defy both the right and the result of a prosecution. "On this "ground," says he, "I will meet Mr. Burke "whenever he please. It is better that the "whole argument should come out than to "seek to stifle it." Having raised his name, he seems desirous of having his person exalted.

WERE I inclined to think with Mr. Burke, that Mr. Paine deserves no other refutation than criminal justice, I should no more than him have troubled myself with any answer: these letters had not been commenced, had I not conceived a prosecution might only have increased the evil it might endeavour to restrain. Indicting Mr. Paine for a libel would but sanction his absurdities. To prosecute opinions on government,

government, would be degrading that liberal principle which should characterize the policy and justice of a free country. The greatest truths having been discovered in every science, by the investigation of published errors, it would be an injury to national improvement to punish freedom of enquiry. If Mr. Paine has erred let him be nationally confuted, but not criminally convicted. To prosecute any one for error, is equally a violation of public justice and national dignity. As no man is infallible, to chastise error would be an irreparable injury to human nature. And as the opinions of Mr. Paine are evidently under the powerful influence of a temporary prejudice, it would be as inhuman as unjust to punish him for mistakes, to which his mind might otherwise have not been liable. Inflamed with the late revolutions in America and France, he thinks this country can only be rendered happy by the same slate-convulsions. In the heat and ardour of enthusiasm, he forgets that America could only thus acquire an independence, to which she was entitled by her state of maturity; and that France could only emancipate herself from the galling fetters of despotism, by destroying a government professedly inimical to the

freedom

freedom, happiness, and prosperity of her people. Viewing the blessings that have been derived to America from her independence, and to France from her free constitution, he thinks revolutions not only have, but in all the world would be, one universal accommodation to mankind. Could freedom be restored to all the enslaved with as little personal sacrifice as yet has attended France, human nature might indeed be congratulated on a felicitous restoration of the golden age. But, with regard to England, before he had attempted to persuade her she had a constitution to form, and, consequently, a revolution to adopt, he should have first well satisfied himself that she was either like America dependant, as a colony, on a distant country, or, like France, under the rod of a government established in oppression, and exercised with wanton cruelty and insulting power.

WITH regard to Mr. Burke having suggested a doubt, whether Mr. Paine's Rights of Man would be thought deserving "any other refutation than that of criminal justice," much as Mr. Paine's sentiments deserve censure, yet such an insinuation came with a very ill grace

from Mr. Burke: the reflections on the revolution in France, are, if possible, more inimical to the welfare of a people, than even the incitements to a revolution are in the Rights of Man. Unfounded in policy, propriety, and necessity, as Mr. Paine's arguments are in favour of a revolution, yet they no more deserve criminal prosecution than those of Mr. Burke. Sentiments in favour of despotism are more dangerous to mankind, than all the arguments that could possibly be urged in favour of a change of government. A revolution would only be a violent remedy producing a future benefit. But to espouse, support, and confirm tyranny is perpetuating the worst of evils, that can possibly afflict mankind. And as all criminal prosecutions should be directed against whatever might tend to injure the welfare of nations, as well as individuals, those are more the objects of legal punishments, who endeavour to fanction principles and practices that are destructive of every comfort that can render existence desirable. That such as merely wish to give some temporary shocks to a state, as electricians shock the human frame, in order to brace again the relaxed tone of its system. Although the nature of such

such a shock to this country is as inexpedient as it is dangerous, yet the consequence is rather to be hazarded, than to adopt principles that would undoubtedly strike national freedom with the dead palsy. Whatever cause Mr. Burke may have had to be alarmed at the French disease, yet every person would certainly prefer it to such an incurable affliction as leaves human nature blasted, like the tempest-stricken pine of the desert.

MR. Paine says—" But admitting governments to be changed all over Europe, it certainly may be done without convulsion or revenge." He might as well assert, that an universal storm could be raised without a convulsion of element. Such positions are equally false in politics and physicks. On what does he support such an assertion? Sentiments may appear false in themselves, that are supportable by experience; but this sentiment, so evidently false, *prima facie*, is as void of any foundation that can be derived from the histories of past ages, as it is falsified by later experience. The two changes of government that have happened in America and France, were not without

out convulsion and revenge. Will he adduce the American war of fourteen years, wherein such an immense profusion of treasure and existence was sacrificed, as evidence of the placidity, good humour, and temperance, with which a change of government in that part of the world was effected? Or will he refer us to the personal sacrifices that attended the expiring groans of tyranny in France, as demonstrations of the mild, forgiving serenity that characterised her political atmosphere in the moments of revolution? Having adduced these as incontestible arguments in favour of his assertion, he may next produce her present prospect of security from the least "convulsion or revenge." Not having been able to support his own position with one argument, he may possibly accept the above irrefragable hints as kind assistances to a blind man bewildered in a lame cause,

INDEPENDENT of the many instances history affords to disprove what he asserts, it is contrary to the nature of mutations in government to have them effected without some convulsion and revenge. Governments may be reformed, but never changed, without irritating, exciting and provoking

provoking the most baneful passions. A people emerging from oppression, are too much elated with the hopes of the future, and too indignant against the sufferings of the past, to have the power of restraining their vengeance. All opposition but inflames their resentment, and before reason can pardon, passion is sating his revenge. Victims are led to the altar of national sacrifice, and executed without any other conviction than the remembrance of former oppression. At this moment of popular ardour and tumult, every citizen is judge, jury, and executioner; the same moment devotes and brings destruction. Mr. Paine having contemplated these scenes, may have had his humanity cauterized, as sinners have their consciences seared from a long acquaintance with vice. *Sic lethalis hyems paulatim in peccora venit.* He may probably observe neither convulsion nor revenge in such executions. The blood of tyrants may appear to him but as a pious and sacred libation to the manes of departed patriots. Could the public confine their fury to such enemies of mankind, these libations might not flow too copiously; but when frenzy urges the multitude to vindictive sacrifice, the innocent fall promiscuously

euously with the guilty. Passion is too much interested to pause for reason to discriminate, and anarchy, stimulated by feelings yet sore with oppressive severity, threatens all with horror and devastation. This scene of uproar, madness, and devastating fury, the malignant seize as the moment for cruelty, the depredator for plunder, the feditious for mischief, and the ambitious to raise themselves by the downfall of those who were before the objects of their envy.

MR. PAIN E may possibly answer, that were such dismal effects to be expected from a revolution in this country, it would prove, that the same reasons existed to incite them as did where this civil destruction had happened. And he may ask, where a government was so intolerable as to stimulate the people to such outrages, what mode short of a revolution could effect a change in favour of the people? So far is this from being the truth, that in the best governments the most violent commotions have happened. The public mind, attached to ambitious leaders, are more governed by the policy of others than their own principles. What is more subject to popular delusion than public opinion? Has not this

this been the cause of most of the civil and religious massacres that have disgraced, while they deluged, human nature? As soon as the least pretence arises for breaking the bonds of society---not only the deluded, but the vile, worthless, and desperate mingle in one common mass of discord, violence, and devastation. Those who would always live by spoil, embrace it as their harvest of national plunder. Every government to them is, therefore, an object of their vengeance. The law which punishes, the army which awes, and the civil officers who watch, detect, and bring them to justice, are those on whom they first direct their deadly hatred. What a dismal example of these truths did not the riots in 1780 afford in the metropolis and its vicinity? Will Mr. Paine assert, that the government wanting a revolution was the cause and the apology for all the sacrifice of property at that period? Does he not know that the evil first commenced in fanaticism, was continued by a wanton and unprincipled disposition to destroy, and was ended by force, and not by a conviction of its atrocious criminality? If such were the effects of a madman's summons, what ruin might we not expect, when the

bonds of government are dissolved, when no force is left to restrain the vile, moderate the resentful, or guide the rashness of civil and religious enthusiasm? Every villain then having the sanction of a revolution for his crimes, and in suspended law security from punishment, might continue his plunder and massacre until vice had fated herself with human injury.

THESE are the dreadful evils that naturally present themselves to the mind, as the probable consequence of a government dissolved for the purpose of a revolution. Happy may France think herself to find her ancient despotism destroyed, and her liberties established, without experiencing all the above train of misery. It is a phenomenon in politics that is beyond reason to explain; to see a people unshackling themselves from every species of oppression, while the guardianship of law was suspended, and effecting this in the very moment of the most violent and conflicting passions, with such few instances of personal sacrifice, certainly excites our wonder, but cannot afford us confidence. It is such a miracle as we can never hope to see again; it is one of those events in

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the history of man, that proves more the interposition of a providence, than what the pulpit can afford us in a century. But although such a happy relief of a people, with so little misfortune, is not to be expected again, yet, in every state of tyranny, I could wish to see the experiment tried.---It is scarcely possible that a slave can be rendered more wretched by a revolution. Those who have all to gain, and nothing to lose, may throw the die of revolt with some hopes of winning the main of freedom.

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POSTSCRIPT.

HAVING, in my letter, controverted the definition Mr. Paine has given of a constitution, and having stated, contrary to his position of a government being the creature of a constitution, that a constitution is rather the result of practical experience in government; I reserved for this place a few thoughts, on what could have induced Mr. Paine to adopt such strange opinions.

His error seems to have arisen from believing no constitution can have an existence, however free the principles of government are, unless there is a collection of regulations made in the moment of revolt and state-dissolution; and unless these rules have the "visible form" of a six-penny pamphlet, every country is without a constitution. In his zeal for a revolution, he seems to have forgotten, that every fundamental law forms an essential part of a constitution.

constitution. Whatever tends to secure civil and religious liberty, and is enacted as a rule for sovereigns, legislators, justiciaries, magistrates, and every other subordinate department in the government, is the constitution; and the records of these acts are its sacred repository.

WHAT do the constitutions of America and France derive from the “visible form” of their publication, more than the fundamental principles of our government, as contained in our common and statute laws; they are only the rule and guidance of the executive, judiciary, and legislative powers. So are all our laws that prescribe the prerogative of our kings, recognize the privileges of the subject, and determine the principles and powers of secular and ecclesiastic jurisprudence. Our constitution has not the less vigour from not being collected in one point of view, and much less is its existence to be doubted.

Both the constitutions of France and America being framed chiefly on the existing fundamental laws in this country, prove that we have not only a constitution, but that it serves for the

establishment of others. The following parts of the French constitution are subjoined, as an incontestible evidence of our laws being relative to the same principal subjects, and have, therefore, an equal claim to the title.

1. *Declaration of rights.*
2. *Fundamental laws.*
3. *Public powers.*
4. *Public forces.*
5. *Public contributions.*
6. *National relations with foreign countries.*
7. *Revision of constitutional decrees.*

THESE are the titles of the subjects which form the code of constitutional law, as lately established in France; and each of these is some part or other of our common or statute law.

1. The Declaration of Rights alone, if collected from *Magna Charta*, its twenty-four confirmations at different periods *, and the various decla-

* According to Sir Henry Spelman, *Magna Charta* was confirmed 15 times by parliament by Edward I., 8 times by Richard II.; and 6 times by Henry IV.

declarations of rights in the reigns of Charles I. II. and William and Mary, would be sufficient of themselves to fill a very copious volume.

2. The fundamental laws are contained likewise in *Magna Charta*, its confirmations, *statutum de tallagio*, *habeas corpus*, *petition of rights*, *bill of rights*, *abolition of knight service*, *of the Star chamber*, *declaration of rights*, &c.

3. The public powers are defined and prescribed by every law relative to the extent, duration, and jurisdiction of parliament, the authority of the king, the rules of administering justice, extent of ministerial functions, royal proclamations, and every other department of executive power.

4. Public forces, being mutable according to the necessity of the times, can have no other standard regulation than the nature of establishment under what part of the government they are directed, and their relative privileges and functions with other members of the community. Their extent, service, and appointment, depending on temporary emergency, are necessarily regulated by statutes enacted every session.

5. Public

5. Public contributions are defined and regulated by *Magna Charta*, the statute *de Tallagio*, and several other statutes that have passed in the the reigns of Edw. III. Rich. II. Hen. IV. Rich. III. Hen. VII. Charles I. Charles II. &c.

6. National relations with foreign countries, are regulated by the laws of denization and naturalization.

7. Revision of constitutional decrees, is a power exercised by the legislature, and not assumed, as in France, by a distinct constituent authority. There is no such declared power existing, as can alter fundamental laws without the consent of every branch of the government. But as circumstances may require alterations in fundamental principles, this power is perpetually exercised by the wisdom of the three estates, in every session of a parliament. Whatever appears expedient to them in the revision, amendment, and enforcement of law, is in their power at all times to perform.



